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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,369	07/10/2006	Peter John Hastwell	13004.4	6262

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER	
BHAT, NARAYAN KAMESHWAR	
ART UNIT	PAPER NUMBER
1634	
MAIL DATE	DELIVERY MODE
07/21/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/562,369	**Applicant(s)** HASTWELL ET AL.	
	Examiner NARAYAN K. BHAT	**Art Unit** 1634	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *6/21/2010*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *None*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *1-27,29,31-33 and 53-65*.
   Claim(s) withdrawn from consideration: *None*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: IDS: 4/21/2010 & 5/20/2010.

/Narayan K. Bhat/
Examiner, Art Unit 1634

Continuation of 11-Does NOT place the application in condition for allowance because claims 1-8 and 53-65 have been rejected under 35 USC 103(a) being unpatentable over McEntee et al in view of Paolini et al. Claims 9-27, 29 and 31-33 have been rejected under 35 USC 103(a) being unpatentable over McEntee et al in view of Montgomery and further in view of Paolini et al. Applicant's argument filed on June 21, 2010 have been fully considered, but are not persuasive for the following reasons.

Claim Rejections - 35 USC § 103(a)
Applicants reiterate their previous arguments and further assert that the said arguments are from prior responses (Remarks, pg. 2, paragraph 3). These arguments have been addressed in the prior office action and the responses on the record are still valid. It is maintained that the subject matter of claims 1-8 and 53-65 are obvious over McEntee et al and Paolini et al and of claims 9-27, 29 and 31-33 are obvious over McEntee et al in view of Montgomery et al and further in view of Paolini et al.

Applicants further argues that McEntee et al do not disclose a chemical functional layer inherently because McEntee et al disclosing in situ synthesis does not mean the reference teaches a chemically functional layer (Remarks, pg. 3, paragraphs 2and 3). These arguments are not persuasive because as described in the final office action mailed in February 19, 2010, McEntee et al teaches that the substrate comprises additional layers for chemical and biological array fabrication (paragraphs 0010, 0052 and 0108). Instant specification recites chemically functional layer is intrinsically reactive (paragraph 0057). The additional layer of McEntee et al for chemical array fabrication is the chemically functional layer as recited in the instant specification because it is intrinsically reactive for array fabrication. Furthermore, during the interview on September 15, 2009 with the Applicant's representative, Examiner suggested that an alternative claim language to define the "chemical functional layer" with a composition that distinguishes from the teachings of McEntee et al, which Applicants did not incorporate to further define their invention. Furthermore, the limiting definition for a "chemically functional layer" is lacking in the instant specification and therefore claims are interpreted broadly and given the broadest reasonable interpretation, the additional layers for chemical or biological array fabrication of McEntee et al meets the limitation of "a chemically functional layer".

Applicants further argue that McEntee et al teaches that arrays are made on the photoconductor and there is no additional layer (Remarks, pg. 3, last paragraph). The Examiner acknowledges McEntee et al teaches a plurality of Embodiments. However, as described in the above paragraphs McEntee et al teaches that "the substrate 110 further comprises additional layers (not shown) for chemical, biological, mechanical, structural or other purposes" (paragraph 0052). Since McEntee et al teaches additional layers, Applicant's arguments regarding "no additional layer" are not persuasive.

Applicants further reiterate that McEntee et al do not disclose a separate chemically functional layer either explicitly or inherently and further assert that the Examiner did not address this argument in the office action (Remarks, pg. 4 and paragraphs 3 and 4). These arguments are repetitive and are not persuasive for the same reasons as described above.